

**REMARKS**

Claims 1 – 4, 6 – 15 and 17 are pending in the present application and are presented for further examination in view of the foregoing amendments and the following remarks.

In the outstanding Office Action, the Examiner objected to the drawings under 37 CFR §1.83(a); objected to the specification due to informalities; objected to claim 5 under 37 CFR §1.75(c); rejected claims 2, 3 and 9 – 17 under 35 U.S.C. §112, second paragraph, as being indefinite; rejected claims 1 – 7, 9 – 11 and 15 – 17 under 35 U.S.C. §102(b) as being anticipated by U.S. patent no. 4,757,876 to Peacock (hereinafter referred to as “the Peacock ‘876 patent”); and rejected claims 8 and 12 – 14 under 35 U.S.C. §103(a) as being unpatentable over the Peacock ‘876 patent in view of U.S. patent no. 4,773,503 to Purkapile (hereinafter referred to as “the Purkapile ‘503 patent”).

By this Response and Amendment,

the specification has been amended to delete reference to figure 1;

claim 1 has been amended to recite “[a] ladder *adapted to be secured to* a truck..., a lower end of the second leg portion being pivotally *and releasably secured on* a lower portion of the truck, whereby... the first leg portion and the second leg portion continuously extend *over the tailgate* in a first operable position...” and, as amended, the rejections thereto and the rejections to the claims dependent thereon are traversed;

claims 5 and 16 have been canceled;

claim 12 has been amended to replace the phrase “means of a removable pivot” with the phrase – pivoting means –;

claim 14 has been amended to delete the phrase “means of;” and

claim 15 has been amended to recite “both the first leg portion and the second leg portion each comprise two parallelly extending side rails that are made of pre-fabricated modular components;”

The amendment to claim 1 can be found on page 5, lines 4 – 12 and the figures referenced therein; the support for the amendment to claim 15 can be found in originally filed claim 3. Therefore,

it is respectfully submitted that the above amendments do not introduce any new matter within the meaning of 35 U.S.C. §132(a).

#### **Objection to the Drawings**

The Examiner objected to the drawings under 37 CFR §1.83(a) for not showing every feature of the invention specified in the claims, specifically noting “extendible side rails” as recited in claim 16.

#### **Response**

By this Response and Amendment, claim 16 has been canceled thereby rendering the objection thereto moot. Due to the cancellation of claim 16 no replacement drawings have been submitted.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the outstanding objection.

#### **Objections to the Specification**

The Examiner objected to the specification for reference to “figure 1” whereas figure 1 is more accurately represented as figures 1A – 1C; the Examiner also objected to the specification for not discussing extendable side rails.

#### **Response**

By this Response and Amendment, reference to figure 1 has been removed from the specification and claim 16 is canceled thereby rendering the objection to lack of disclosure in the specification regarding extendable side rails moot.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the outstanding objection.

**Claim Objection**

The Examiner objected to the claim 5 for failing to further limit the subject matter of a previous claim.

**Response**

By this Response and Amendment, claim 5 has been canceled thereby rendering the objection thereto moot.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the outstanding objection.

**Rejections Under 35 U.S.C. §112, Second Paragraph**

The Examiner rejected claims 2, 3 and 9 – 17 as being indefinite. The Examiner rejects claims 2, 3 and 9 – 17 as being inconsistent between the language in the preamble and certain portions in the body of the claims.

**Response**

By this Response and Amendment, claim 1 has been amended to recite “[a] ladder adapted to be secured to a truck.” As such, the language of claims 2 and 9 – 11 now coincides with the language of claim 1 as a “truck” is no longer positively recited in claim 1.

**Rejections Under 35 U.S.C. §102(b)**

The Examiner rejected claims 1 – 7, 9 – 11 and 15 – 17 as being anticipated by the Peacock ‘876 patent.

**Response**

By this Response and Amendment, claim 1 has been amended and, as amended, Applicant respectfully traverses the Examiner’s rejections.

Amended independent claim 1 recites “[a] ladder adapted to be secured to a truck fitted with a pivotal tailgate, the ladder comprising a first leg portion pivotally coupled to a second leg portion, at least one of said leg portions being fitted with at least one rung; an upper end of the first leg portion being pivotally attachable to an upper portion of the tailgate and a lower end of the second leg portion being pivotally and releasably secured on a lower portion of the truck, whereby when the tailgate is in its closed position, the first leg portion and the second leg portion continuously extend over the tailgate in a first operable position and opening the tailgate is associated with spontaneous and automatic deploying the ladder into a corresponding second operable position.”

In accordance with the invention, the ladder is deployable to a useful position without need for manual manipulation and it is always ready for use, irrespective of whether the tailgate is up or down. When the tailgate is closed, the ladder is in the first operable position, in which it extends continuously over the outside face of the tailgate and is accessible to a user. When the tailgate is being opened the ladder spontaneously and automatically deploys into second operable position, in which its first leg portion is easy accessible. Deployment of the ladder from the first operable position into the second operable position is possible in a hands-free manner, i.e. simply by opening the tailgate without the necessity to manipulate the ladder.

This result is achieved by virtue of pivotally coupling the first and the second leg portion, by virtue of pivotal connection of the upper end of the first leg portion to the tailgate and by virtue of the fact that the lower end of the second leg portion is pivotally connected to a lower portion of the truck when the ladder is being deployed into second operable position.

The Peacock ‘876 patent, on the other hand, does not disclose these limitations. The foldable tailgate step assembly disclosed in the Peacock ‘876 patent is not designed for and is not capable of being deployed in *two operable* positions. The step assembly of Peacock is capable of being deployed only into a *single* operable position, in which the tailgate is open and the assembly fully extends from the upper end of the tailgate until it reaches the ground. To deploy the step

assembly into this position one should always manually unfold it from the folded position in which it is stored on the inside face of the tailgate.

In the step assembly disclosed in the Peacock '876 patent the lower end of the lower arms 17 is not connected to the lower portion of the truck (as in the present claims) and therefore there is no possibility for pivoting the upper arms with respect to the lower arms during opening the tailgate. Accordingly the step assembly of Peacock cannot spontaneously and automatically deploy into a second *operable* position during opening the tailgate.

Thus, Applicant submits that the Peacock '876 patent fails to disclose all of the limitations of claim 1, and of the claims that depend from claim 1. Accordingly, Applicant submits that claims 1-7, 9-11 and 15-17 are not anticipated by the Peacock '876 patent.

Reconsideration of claim 1, as now presented, and of Claims 2– 17, which depend thereon, is respectfully requested.

#### **Rejections Under 35 U.S.C. §103(a)**

The Examiner rejected claims 8 and 12– 14 as being unpatentable over the Peacock '876 patent in view of the Purkapile '503 patent.

#### **Response**

By this Response and Amendment, claim 1 has been amended to overcome the Peacock '876 patent. The arguments above with respect to the Peacock '876 patent are incorporated herein by reference.

The Purkapile '503 patent does not account for the deficiencies of the Peacock '876 patent. The Purkapile '503 patent is directed toward a hinge for connecting two sections of a ladder. However, the Purkapile '503 patent is silent as to the connection of an upper end of a ladder to an upper portion of a truck's tailgate and a lower end of a ladder being pivotally and releasably secured

on a lower portion of the truck. Furthermore, the Purkapile '503 patent is silent as to a ladder that is operable when the tailgate is in both an open and a closed position.

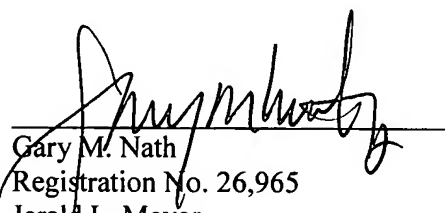
Therefore, Applicant submits that even if the references were combined in an attempt to achieve the present claims, the combination of references would not achieve the present inventive subject matter. In particular, the combination of references would still lack the connection of an upper end of a ladder to an upper portion of a truck's tailgate and a lower end of a ladder being pivotally and releasably secured on a lower portion of the truck. Furthermore, the combination of references is silent as to a ladder that is operable when the tailgate is in both an open and a closed position. As such, Applicant submits that the connection of references does not render claim 1 obvious, and since claims 8 and 12-14 depend from claim 1 and contain all of the limitations found therein, the references do not render claims 8 and 12-14 obvious.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections made under 35 U.S.C. §103(a).

Respectfully submitted,

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